

Form 207—General Information
(Certificate of Formation—Limited Partnership)

The attached form is designed to meet minimal statutory filing requirements pursuant to the relevant code provisions. This form and the information provided are not substitutes for the advice and services of an attorney and tax specialist.

Commentary

A limited partnership (hereinafter LP) is governed by title 4, chapters 151 and 153 of the Texas Business Organizations Code (BOC). Title 1, chapter 3, subchapter A of the BOC governs the formation of an LP and sets forth the provisions required or permitted to be contained in the certificate of formation.

An association of two or more persons to carry on a business for profit creates a partnership unless the association or organization is created under a statute other than title 4 of the BOC. A limited partnership is a partnership with limited partners that do not have the obligations or duties of general partners solely by reason of being limited partners. To form a limited partnership, the partners must enter into a partnership agreement and file a certificate of formation with the secretary of state. In a limited partnership, there will be one or more general partners and one or more limited partners. Partners may be individuals, partnerships, corporations, and any other type of legal entity.

Taxes: Limited partnerships are subject to a state franchise tax. Contact the Texas Comptroller of Public Accounts, Tax Assistance Section, Austin, Texas, 78774-0100, (512) 463-4600 or (800) 252-1381 for franchise tax information. For information relating to federal employer identification numbers, federal income tax filing requirements, tax publications and forms call (800) 829-3676 or visit the Internal Revenue Service web site at www.irs.gov.

Instructions for Form

- **Article 1—Entity Name and Type:** Provide a partnership name and organizational designation. The entity name must comply with the provisions of chapter 5 of the BOC and the administrative rules on entity name availability adopted by the secretary of state. Chapter 5 of the BOC requires that the entity must be distinguishable in the records from the name of any existing domestic or foreign filing entity, any fictitious name under which a foreign filing entity is registered to transact business in this state, or any name reservation or registration filed with the secretary of state. In addition, the entity name may not contain any word or phrase that by its inclusion in the name: 1) indicates or implies that the entity is engaged in a business that the entity is not authorized to pursue, or 2) falsely implies that the entity is affiliated with a governmental entity. If the entity name does not comply with these provisions, the document cannot be filed.

The administrative rules adopted for determining entity name availability (Texas Administrative Code, title 1, part 4, chapter 79, subchapter C) may be viewed at www.sos.state.tx.us/tac/index.shtml. If you wish the secretary of state to provide a preliminary determination on name availability, you may call (512) 463-5555, dial 7-1-1 for relay services, or e-mail your name inquiry to corpinfo@sos.texas.gov. If the entity name does not meet the standard for availability, the document will not be filed. A final determination cannot be made until the document is received and processed by the secretary of state. Do not make financial expenditures or execute documents based on a preliminary clearance. Also note that the preclearance of a name or the issuance of a certificate of formation under a name does not authorize the use of a name in violation of another person's rights to the name.

- **Article 2—Registered Agent and Registered Office:** The registered agent can be either (option A) a domestic entity or a foreign entity that is registered to do business in Texas or (option B) an individual resident of the state. The limited partnership cannot act as its own registered agent; do not enter the limited partnership name as the name of the registered agent.

Consent: A person designated as the registered agent of an entity must have consented, either in a written or electronic form, to serve as the registered agent of the entity. Although consent is required, a copy of the person's written or electronic consent need not be submitted with the certificate of formation. *The liabilities and penalties imposed by sections 4.007 and 4.008 of the BOC apply with respect to a false statement in a filing instrument that names a person as the registered agent of an entity without that person's consent.* (BOC § 5.207)

Office Address Requirements: The registered office address must be located at a street address where service of process may be personally served on the entity's registered agent during normal business hours. Although the registered office is not required to be the entity's principal place of business, the registered office may not be solely a mailbox service or telephone answering service (BOC § 5.201).

- **Article 3—Governing Authority:** The certificate of formation must state the name and address of each general partner in the space provided. A minimum of one general partner is required.

If the general partner is an individual, set forth the name of the individual in the format specified. Do not use prefixes (e.g., Mr., Mrs., Ms.). Use the suffix box only for titles of lineage (e.g., Jr., Sr., III) and not for other suffixes or titles (e.g., M.D., Ph.D.). If the general partner is an organization, set forth the legal name of the organization. For each governing person, only one name should be entered. Do not include both the name of an individual and the name of an organization. An address is always required for each general partner.

Please note that a document on file with the secretary of state is a public record that is subject to public access and disclosure. When providing address information for a general partner, use a business or post office box address rather than a residence address if privacy concerns are an issue.

- **Article 4—Principal Office:** The certificate of formation must include the address of the principal office of the partnership in the United States where records are to be kept or made available in accordance with section 153.551 of the BOC. Set forth the principal office in article 4.
- **Initial Mailing Address:** *Effective January 1, 2022*, the certificate of formation of a filing entity must provide the initial mailing address for the entity. The initial mailing address is the address that will be used by the Comptroller of Public Accounts for sending tax information and correspondence to the entity. The initial mailing address may be a post office box or street address.
- **Supplemental Provisions/Information:** Additional space has been provided for additional text to an article within this form or to provide for additional articles to contain optional provisions.
- **Effectiveness of Filing:** A certificate of formation becomes effective when filed by the secretary of state (option A). However, pursuant to sections 4.052 and 4.053 of the BOC the effectiveness of the instrument may be delayed to a date not more than ninety (90) days from the date the instrument is signed (option B). The effectiveness of the instrument also may be delayed on the occurrence of a future event or fact, other than the passage of time (option C). If option C is selected, you must state the manner in which the event or fact will cause the instrument to take effect and the date of the 90th

day after the date the instrument is signed. In order for the certificate to take effect under option C, the entity must, within ninety (90) days of the filing of the certificate, file a statement with the secretary of state regarding the event or fact pursuant to section 4.055 of the BOC.

On the filing of a document with a delayed effective date or condition, the computer records of the secretary of state will be changed to show the filing of the document, the date of the filing, and the future date on which the document will be effective or evidence that the effectiveness was conditioned on the occurrence of a future event or fact. In addition, at the time of such filing, the status of the entity will be shown as “in existence” on the records of the secretary of state.

- **Execution:** Each general partner must sign the certificate of formation, but it does not need to be notarized. However, before signing, please read the statements on this form carefully. The designation or appointment of a person as registered agent by a managerial official or organizer is an affirmation that the person named in the certificate of formation has consented to serve in that capacity. (BOC § 5.2011)

A person commits an offense under section 4.008 of the BOC if the person signs or directs the filing of a filing instrument the person knows is materially false with the intent that the instrument be delivered to the secretary of state for filing. The offense is a Class A misdemeanor unless the person's intent is to harm or defraud another, in which case the offense is a state jail felony.

- **Payment and Delivery Instructions:** The filing fee for a certificate of formation for an LP is **\$750**. Fees may be paid by personal checks, money orders, LegalEase debit cards, or American Express, Discover, MasterCard, and Visa credit cards. Checks or money orders must be payable through a U.S. bank or financial institution and made payable to the secretary of state. Fees paid by credit card are subject to a statutorily authorized convenience fee of 2.7 percent of the total fees.

Submit the completed form in duplicate along with the filing fee if submitting the document by mail or by courier delivery. The form may be mailed to P.O. Box 13697, Austin, Texas 78711-3697 or delivered to the James Earl Rudder Office Building, 1019 Brazos, Austin, Texas 78701. On filing the document, the secretary of state will return the appropriate evidence of filing to the submitter together with a file- stamped copy of the document, if a duplicate copy was provided as instructed.

Need Faster Delivery and Processing? Use our SOSUpload system to electronically submit a PDF copy of the completed and executed document. When submitting a document through SOSUpload, do not include a copy of these instructions, a duplicate copy of the document, payment information, or personal identifying information (PII). Inclusion of this information may lead to a rejection of the document. For more information on SOSUpload, please call (512) 463-5555; email corpinfo@sos.texas.gov; or visit <https://direct.sos.state.tx.us/lef/index.aspx>

- **FYI:** An LP is required to maintain a registered agent and a registered office address in Texas. If the registered agent or registered office address changes, it is important to file a statement with the secretary of state to effect a change to the certificate of formation. Failure to maintain a registered agent and registered office may result in the involuntary termination of the LP.

A Texas limited partnership that also registers with the secretary of state as a limited liability partnership (LLP) must file an annual report with the secretary of state no later than June 1 of each year. The report is due following the calendar year in which the application for registration takes effect. (BOC § 152.806) The secretary of state will notify a partnership with an active LLP registration of its need to file the annual report no later than March 31 of each year. *Notice will be*

sent to the office address shown on the LLP registration. Failure of the partnership to receive the notice does not relieve the partnership of the requirement to file the annual report when due.

Sections 153.301 through 153.312 of the BOC, authorize the secretary of state to require a domestic limited partnership that is not required to file a public information report with the Comptroller of Public Accounts under section 171.203 of the Tax Code to file a report not more than once every four (4) years. The report includes information on the LP's registered agent and office, principal office, and the names and addresses of the general partners of the partnership. A notice that the report is due will be sent by the secretary of state to the partnership and will be mailed to the registered office address. Failure to file the report with the secretary of state within the time period specified by the secretary will result in the involuntary termination of the LP.

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